

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PATRICK A. BRENNER, II,

Plaintiff,

Case No. 11-13888

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

_____ /

ORDER ADOPTING REPORT AND RECOMMENDATION (Doc. 27)
AND
GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT (Doc. 26)
AND DISMISSING CASE

I.

This is a social security case. On September 7, 2011, plaintiff, who is proceeding pro se, filed this action seeking judicial review of an unfavorable decision regarding his disability benefits. The matter was referred to a magistrate judge for all pretrial proceedings.¹ The Commissioner filed a motion for summary judgment. (Doc. 26). Plaintiff did not file a response to the motion nor file a cross motion for summary judgment.¹ The magistrate judge issued a report and recommendation (MJRR),

¹Previously, the Commissioner filed a motion to dismiss on the grounds that plaintiff failed to file the complaint within sixty days of the Appeals Council's decision and was therefore barred from judicial review. (Doc. 10). Plaintiff filed a response, essentially arguing for equitable tolling. (Doc. 12). The magistrate judge recommended that the motion be granted. (Doc. 16). The Court disagreed, finding that plaintiff was entitled to equitable tolling. (Doc. 17).

¹As explained in the report and recommendation, plaintiff failed to comply with a scheduling order setting deadlines for filing a motion for summary judgment and failed

recommending that the motion be granted. (Doc. 27).

II.

Neither party has filed objections to the MJRR and the time for filing objections has passed. The failure to file objections to the report and recommendation waives any further right to appeal. Smith v. Detroit Federation of Teachers Local 231, 829 F.2d 1370, 1373 (6th Cir.1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motions. Thomas v. Arn, 474 U.S. 140, 149 (1985).

However, the Court has reviewed the MJRR and agrees with the magistrate judge. Accordingly, the findings and conclusions of the magistrate judge are ADOPTED as the findings and conclusions of the Court. The Commissioner's motion for summary judgment is GRANTED. This case is DISMISSED.

SO ORDERED.

S/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

Dated: August 14, 2013

I hereby certify that a copy of the foregoing document was mailed to the attorneys of record on this date, August 14, 2013, by electronic and/or ordinary mail.

S/Sakne Chami
Case Manager, (313) 234-5160

to respond to an order to show cause.